Veto No. 1978-1

HB 71 April 4, 1978

To the Honorable, the House of Representatives
of the Commonwealth of Pennsylvania:

I return herewith without my approval, House Bill No. 71, Printer's No. 2579, entitled "A Joint Resolution making application to the Congress of the United States to call a convention for drafting and proposing an amendment to the Constitution of the United States to guarantee the right to life to the unborn fetus."

This bill presently before me for approval by the terms of Article III, Section 9 of the Pennsylvania Constitution is a Joint Resolution calling for the convening of a national convention for the purpose of adding an anti-abortion amendment to the United States Constitution.

Without regard to the "rightness" or "wrongness" of abortion, House Bill No. 71 raises several serious legal problems.

There can be no doubt that a large segment of our society does not share the views advanced by House Bill No. 71. On the contrary, millions of Americans believe that for moral, social, religious or medical reasons, every woman should have the right to make such a choice for herself.

It is for this reason — the very strong and persuasive arguments on both sides of the abortion question — that I believe a constitutional convention is the wrong forum for discussion of this issue. I believe that the Constitution should state only those broad fundamental tenets of American political philosophy, and that noble document which has stood the test of time, and has indeed made this country the oldest continuing form of government in the world, should not be altered on points so specific and inflammatory as the abortion issue.

Amending the Federal Constitution is a major event and not one which is lightly undertaken. Indeed, since the adoption of the Bill of Rights in 1791 only 16 amendments have been added over a period of 186 years.

Article V outlines two amendment procedures: the convention method and the Congressional method.

The Congressional method has been the exclusive method used in our 200 year history. It is clearly defined and has worked well.

It provides that Congress propose and approve any contemplated amendment, after which it is sent to the states for ratification. Upon approval by three fourths of the states, the amendment becomes part of the Federal Constitution.

The convention method provides that, upon application of two thirds of the states, the United States Congress must convene a constitutional convention. Because there has been no convention in 200 years, no one can be sure who sets the agenda of the convention of what the limitations are. How is it financed? What is the basis of representation of the respective states? Are Rhode Island and Pennsylvania to be represented equally, or would their voting strengths be based on population?

More serious is the scope of what may be considered. Eminent constitutional scholars have expressed concern that such a convention, once convened, could not be limited to a single topic even if the resolution so states. If this position is correct, the entire Constitution would be subject to review if a convention were held.

Would the Bill of Rights survive? Even the most ardent opponents of legal abortion have grave doubts about this vehicle of achieving their goal. Dr. Mildred Jefferson, President of the National Right to Life Committee, a major anti-abortion group, has this to say about why she, a black woman, was afraid of the constitutional convention approach:

> "I don't want to run the risk of ending up in slavery. Once they open the matter of amending the Federal Constitution, they just might do away with the amendment establishing my right to live as a free person in this land."

Similarly, Professor Henry Witherspoon of the University of Texas School of Law and legal advisor of the National Right to Life Committee stated that he preferred going through Congress rather than "turning an unexperienced, one-shot constitutional convention loose."

Thus it appears that, without regard to what one feels about the propriety of legal abortion, House Bill No. 71 is an approach to be rejected.

If it is proper and desirable to make such a single-purpose amendment — moreover, one that lacks any national consensus — part of the Federal Constitution, it should be accomplished at least by a method which does not threaten the basic fabric of our Constitution.

As Governor, I have a special obligation to speak out to the General Assembly and the citizens of this Commonwealth concerning the possible legal consequences of amending the Constitution in this manner. For these reasons I withhold my approval of House Bill No. 71.

MILTON J. SHAPP

Veto No. 1978-2

HB 642 April 13, 1978

To the Honorable, the House of Representatives
of the Commonwealth of Pennsylvania:

I return herewith, without my approval, House Bill No. 642, Printer's No. 2696, entitled "An act amending the act of August 5, 1941 (P.L.752, No.286), entitled 'An act regulating and improving the civil service of certain departments and agencies of the Commonwealth; vesting in the State Civil Service Commission and a Personnel Director certain powers and duties; providing for classification of positions, adoption of compensation schedules and certification of payrolls; imposing duties upon certain officers and employes of the Commonwealth; authorizing service to other State departments or agencies and political subdivisions of the Commonwealth in matters relating to civil service; defining certain crimes and misdemeanors; imposing penalties; making certain appropriations, and repealing certain acts and parts thereof,' further providing for the political activities of individuals covered by civil service."

This bill proposes to remove most of the current restrictions placed upon some 70,000 Commonwealth employes covered by the Civil Service Act. It would permit those employes to hold appointed and elected political party office, to solicit voluntary political contributions, even during working hours, to participate in political conventions and the management of political campaigns, and to circulate nominating or other political petitions on the job.

As Governor of this Commonwealth, I cannot ignore the long history of rampant abuses which resulted in the enactment of the Civil Service Act of 1941. House Bill No. 642 seriously undermines the curative effects of the Civil Service Act of 1941 and would turn back the clock and return the Commonwealth to the abuses of the past. Such a return would be detrimental to the affected employes and to the citizens of this Commonwealth.

There are those who argue erroneously that the present law treats civil servants as "second class citizens," by denying them an active role in politics. What is overlooked is that employes of State Government are free to contribute to any political party or campaign they wish to support, but only outside of their work environment. They are free to attend political meetings, to express openly their political views and thoughts, and, of course, to vote as they wish. In return for the restrictions imposed upon them as a condition of their public employment, State employes now enjoy unprecedented freedom from political intimidation, coercion, and discrimination, and are afforded a work environment where merit related factors are the sole determinants of employes' treatment and advancement and where equality of treatment is assured.

There are those who find support for this bill in the recent action of the

Congress and the United States Civil Service Commission in liberalizing the Hatch Act and regulations governing the permitted political activity of Federal civil service employes. They see no reason to draw any distinction between the Federal Civil Service and the Civil Service of our Commonwealth. Such an argument overlooks the very real and significant differences between the Federal and State bureaucracies. The Federal work force is distributed throughout thousands of Federal offices and installations across the Nation. The State work force, on the other hand, is concentrated in a very few locations, and could be subjected to undue influences and pressures which would result in the exercise of an exaggerated and disproportionate influence upon the operations of government. Such a turn of events could quickly and inevitably reduce efficiency and escalate the cost of government to the taxpayer.

The State Civil Service Commission unanimously opposes House Bill No. 642. The Commissioners cite the very real potential for the creation of conflicts of interests for employes who deal with policymaking or other sensitive issues in the course of their employment. They point to the tremendous administrative expense this legislation will require as employes file discrimination complaints, grievances, adverse action appeals, or seek numerous conflicts of interest rulings. The potential price tag is staggering.

In assessing all of these factors, I perceive no corresponding benefit to the public. To the contrary, the public will be deprived of the administration of State laws and programs by an impartial bureaucracy.

As Governor, I have a special obligation to protect and preserve the integrity of the operation of State Government. The return of House Bill No. 642, unapproved by me, is in furtherance of that responsibility.

MILTON J. SHAPP

Veto No. 1978-3

HB 1277 April 28, 1978

To the Honorable, the House of Representatives
of the Commonwealth of Pennsylvania:

I return herewith, without my approval, House Bill No. 1277, Printer's No. 1500, entitled "An act making an appropriation to the Dickinson School of Law, Carlisle, Pennsylvania."

This bill would appropriate $99,000 to Dickinson Law School.

The Commonwealth remains in a financially restricted situation in spite of the tax increases passed in December 1977. In order to assure the continuing operation of State programs, I cannot approve this non-preferred appropriation to the only law school in the Commonwealth to receive such preferential treatment.

MILTON J. SHAPP

Veto No. 1978-4

HB 1805 April 28, 1978

To the Honorable, the House of Representatives
of the Commonwealth of Pennsylvania:

I return herewith, without my approval, House Bill No. 1805, Printer's No. 2436, entitled "An act amending the act of December 30, 1974 (P.L.1105, No.356), entitled 'A supplement to the act of February 6, 1974 (P.L.80, No.17), entitled "An act providing for the capital budget for the fiscal year 1973-1974," itemizing public improvement projects to be acquired or constructed by The General State Authority together with their estimated financial cost; authorizing the incurring of debt without the approval of the electors for the purpose of financing the projects stating the estimated useful life of the projects, and making an appropriation,' adding a project relating to the Soldiers' and Sailors' Home."

The bill proposes to amend the 1973-74 capital budget to include a greenhouse at the Erie Soldiers' and Sailors' Home. The amount authorized for this project is $100,000.

I included this project in my 1976-77 General Fund Capital budget recommendation. At that time, the estimated cost of the project was $69,000 ($56,000 base construction authorization) to be furnished from the General Fund. Using this amount as a base for updating the figures, the total would rise only to approximately $77,000. The Department of General Services handled the design of the project. Last year, the Department did in fact complete the design phase in anticipation of the passage of the project, and now estimates that the total cost would be approximately $73,000.

The reason for my inclusion of these estimates in this veto is to point out the totally arbitrary nature of the amount provided in the bill. It appears that the $100,000 figure is included to allow bond funds to be used for this project. The Capital Facilities Debt Enabling Act limits the usage of bond funds to the following:

> "(1) 'Capital project' means and includes (i) any building, structure, facility, or physical public betterment or improvement; or (ii) any land or rights in land; or (iii) any furnishings, machinery, apparatus, or equipment for any public betterment or improvement; or (iv) any undertaking to construct, repair, renovate, improve, equip, furnish or acquire any of the foregoing, provided that the project is designated in a capital budget as a capital project, has an estimated useful life in excess of five years and *an estimated financial cost in excess of one hundred thousand dollars ($100,000);* provided, that the one hundred thousand dollars ($100,000) limitation shall not apply to original equipment and furnishings for previously authorized public improvement projects and shall include projects to be financed by the incurring of debt. . . " (emphasis added)

Since our estimates are in the $70,000 range, and the bill originally provided $75,000 but was increased after it was pointed out that this was not in accord with the act, it is obvious that the amount authorized is simply to circumvent the limitations of the Debt Enabling Act.

It is therefore with some reluctance that I disapprove House Bill No. 1805. The estimated cost of this project prohibits the use of bond moneys, and I cannot in good conscience sign such a bill.

MILTON J. SHAPP

Veto No. 1978-5

SB 190 June 15, 1978

To the Honorable, the Senate
of the Commonwealth of Pennsylvania:

I return herewith, without my approval, Senate Bill No. 190, Printer's No. 638, entitled "An act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for commencement of prosecutions and changing reasonable to unreasonable."

This bill would amend subsection (e) of section 108 of Title 18 of the Pennsylvania Consolidated Statutes to mandate that a prosecution is commenced when an information is issued by an attorney for the Commonwealth where authorized to do so.

The substance of this bill is provided for in Title 42 of the Pennsylvania Consolidated Statutes ("Judicial Code"), section 5552, subsection (e) and will become law on June 27, 1978. Section 5552(e) duplicates the intent of Senate Bill 190 by mandating that a prosecution is commenced when an information is issued in compliance with Article I, section 10 of the Pennsylvania Constitution. The signing of Senate Bill No. 190 would only add greater confusion with respect to implementation of the new Judicial Code by duplicating what is contained therein, but only awaiting an effective date.

For these reasons, this bill is not approved.

MILTON J. SHAPP

Veto No. 1978-6

HB 76 June 15, 1978

To the Honorable, the House of Representatives
of the Commonwealth of Pennsylvania:

I return herewith, without my approval, House Bill No. 76, Printer's No. 3011, entitled "An act amending the act of March 10, 1949 (P.L.30, No.14), entitled 'Public School Code of 1949,' providing for alternative methods of equalizing tax levies among certain school districts, and providing for residency of certain school employes."

I am today returning House Bill No. 76, the school employes' residency bill, without my approval.

There are a number of reasons why I feel constrained to disapprove this legislation. Generally, I have not favored legislation in the past which further restricts the right of local governments to make decisions affecting their own future in the absence of some compelling Statewide need. Clearly, House Bill No. 76 represents no such compelling need.

Furthermore, while this legislation has some very ardent supporters, they tend primarily to be those who would be affected by the removal of residency requirements. The list of those who oppose this measure is long and it represents a reasonable cross section of interests in this Commonwealth.

Of all the arguments put forth on both sides of this issue, two stand out as being both just and reasonable and worthy of extremely careful consideration. First, the requirement of residency by an employe is often used as a bargaining tool by school districts. It is, by its very essence, one of those issues which should properly be settled through the collective bargaining process, which is very well established for public employes in this Commonwealth.

If this legislation were to be approved, it would have the effect of granting to public employes a major contractural benefit without any return to the various school districts.

Secondly, this bill, if approved, might open the floodgates for other public employes to demand equal treatment from the Legislature. Indeed, similar bills have already been introduced. While reasonable men might differ on the economic and other effects of eliminating residency requirements for school employes, no one could disagree that the removal of these constraints on firemen, policemen and nonuniformed municipal employes around the State could be disastrous.

Our large cities would find themselves at the mercy of employes who had no compelling interest in the ultimate well-being of their community. In addition, the economic damage to our larger urban areas could further weaken their already insufficient financial base.

Further, the United States Supreme Court has upheld the right of a taxing authority to impose a residency requirement for employes.

To summarize, I veto this legislation because I believe local governments must have the freedom to determine such measures for themselves; because it removes from the district's hands a bargaining option and grants a benefit to employes without any corresponding benefit to the district or its taxpayers; because it could start a trend by other public employe unions seeking the same privilege for themselves; and finally, because I firmly believe that public employes should have a stake in the future of the local government or school district they serve.

MILTON J. SHAPP

Veto No. 1978-7

HB 1124 June 23, 1978

To the Honorable, the House of Representatives
of the Commonwealth of Pennsylvania:

I return herewith, without my approval, House Bill No. 1124, Printer's No. 1967, entitled "An act amending the act of August 9, 1955 (P.L.323, No.130), entitled 'The County Code,' making certain audits mandatory and making an editorial change."

This bill would amend the County Code to mandate annual audits of the accounts of aldermen, magistrates and district justices. Current law provides that such audits may be made.

I must withhold my approval of this bill because it is duplicative to a large extent, and would mandate an unnecessary additional expense on local governments.

Presently, the Auditor General, pursuant to the Fiscal Code, annually audits the accounts of moneys required to be forwarded by aldermen, magistrates and district justices to the Commonwealth. Although the Auditor General does not audit the accounts of moneys to be forwarded to political subdivisions, the County Code provides for such audits if the county government deems it necessary. Therefore, the only possible moneys currently unaudited would be these local funds, which, under current law, as I have noted, the county has the power to audit.

It would therefore be both duplicative, and in many instances unnecessarily expensive, to require these additional audits by county governments.

For these reasons the bill is not approved.

MILTON J. SHAPP

Veto No. 1978-8

SB 1254 June 23, 1978

To the Honorable, the Senate
of the Commonwealth of Pennsylvania:

I return herewith, without my approval, Senate Bill No. 1254, Printer's No. 1543, entitled, "An act amending the act of September 10, 1974 (P.L.639, No.209), entitled, 'Abortion Control Act,' prohibiting subsidizing of abortions."

To prohibit the use of public money to pay for abortions as the Legislature has attempted to do in this bill would be economic discrimination of the worst kind.

The effect of this language would be to say a woman may have an abortion on demand if she is wealthy enough to pay for it but not if she is poor. In effect, the Legislature would say to our citizens who are least able to provide economic support for unwanted children that they do not have the same right extended to more affluent women.

In fact, this language goes so far as to prevent a victim of rape or incest from qualifying for medical assistance for an abortion.

Furthermore, a Federal district court in Illinois found that state's statutory language similar to this to be a violation of Title XIX of the Social Security Act. While that court did not need to reach the constitutional issue, many legal scholars believe that to condition the denial of the necessary medical benefits on the exercise of a woman's constitutionally recognized right — i.e., to choose an abortion — is to deny that woman the equal protection of the law.

For these reasons, the bill is not approved.

MILTON J. SHAPP

Veto No. 1978-9

SB 292 July 1, 1978

To the Honorable, the Senate
of the Commonwealth of Pennsylvania:

I return herewith, without my approval, Senate Bill No. 292, Printer's No. 1997, entitled "An act amending the act of June 13, 1967 (P.L.31, No.21) entitled 'Public Welfare Code,' providing for a system for reimbursement for certain medical assistance items and services and negating a proposed regulation relating to medical assistance."

This bill amends the Public Welfare Code to provide for a system of prior Departmental approvals before reimbursement can be sought for certain medical assistance items and services. Also, the bill purports to negate a proposed regulation which would have the effect of controlling rising hospital costs.

The ironies of this bill cannot be lost on the General Assembly or the public at large. The prior authority portions of this bill as originally written would serve to contain costs associated with several minor matters concerning medical assistance services and supplies, such as oxygen equipment in the home, dental services and orthopedic shoes. The savings to be achieved by these prior authorizations, while significant, are but nothing compared with the savings to be achieved by the proposed rules on hospital cost containment.

Over the past five years, the average hospital cost skyrocketed from $70 per day to $153 per day an increase of 119%. This increase was more than two and one-half times the rate of inflation in the general economy. Hospital costs consume the lion's share of Medical Assistance expenditures in Pennsylvania. Next year hospital costs are projected to be $418 million, or more than 60% of the 1978-79 Medical Assistance budget.

Rising hospital costs are a National problem, and Federal legislation has been proposed to address this problem. When it became clear that Federal legislation to contain hospital costs would not be enacted this year, I proposed a hospital cost containment plan for Pennsylvania.

Now the same General Assembly which has consistently underfunded the Medical Assistance Program has passed Senate Bill No. 292 to block our efforts to hold down the inflationary spiral of hospital costs.

This is fiscal irresponsibility of the highest magnitude which will work to the detriment of health care and services for all the people in Pennsylvania.

The Pennsylvania Cost Containment Plan is not a punitive program. In essence, the Pennsylvania Plan provides reimbursement to hospitals in line with general price increases throughout the economy. The Plan is flexible enough to recognize variations in cost from one institution to another and provides for special adjustments and exceptions where financial hardships can be established.

The Pennsylvania Plan will be implemented on July 1, 1978. The final version of the Plan incorporates modifications recommended by the Hospital Association of Pennsylvania, individual hospitals, Members of the General Assembly and other interested parties.

The Plan is designed to insure that hospitals are reimbursed in a fair and equitable manner while, at the same time, imposing realistic limits on rapidly increasing hospital costs.

The Pennsylvania Plan represents a modest first step toward slowing down hospital cost increases and bringing them into line with the general economy.

Senate Bill No. 292 blocks that effort. I am compelled to veto this bill so that we can begin to set reasonable limits on hospital costs in Pennsylvania.

MILTON J. SHAPP

Veto No. 1978-10

SB 1204 July 1, 1978

To the Honorable, the Senate
of the Commonwealth of Pennsylvania:

I return herewith, without my approval, Senate Bill No. 1204, Printer's No. 1962, entitled "An act amending the act of March 10, 1949 (P.L.30, No.14), entitled 'Public School Code of 1949,' providing for diagnostic and evaluative psychological services for the benefit of children attending nonpublic schools in the Commonwealth."

The purpose of this bill is to characterize diagnostic and evaluative psychological services for children as health services and allow them to be furnished free to nonpublic school students upon the premises of the nonpublic schools which they regularly attend. This is a valid purpose which my administration wholeheartedly supports. Unfortunately, the bill contains a number of technical flaws which could impede rather than speed the delivery of psychological services to the school children of Pennsylvania.

First, the bill transfers the existing duty to provide psychological services to nonpublic school students from the intermediate units to the Secretary of Education directly or through the intermediate units. Although there is an existing allocation to the intermediate units to provide these services, there is no similar allocation to the Secretary of Education. Thus, a responsibility is placed on the Secretary which the Secretary has no capacity to fulfill.

Second, this bill requires that diagnostic and evaluative psychological services be provided free to nonpublic school students upon the premises of the nonpublic schools which they regularly attend. However, the bill neither amends nor repeals Section 922.1-A of the Public School Code of 1949 which specifically states, "Such services shall not be provided in a church or in any facility under the control of a sectarian school." Thus, if enacted, the bill would be in direct conflict with existing provisions of State law.

Third, there is very broad and unsubstantiated language in the legislative finding and declaration of policy to the effect that, "Diagnostic and evaluative psychological services to children can best be rendered upon the premises of the school which the child regularly attends, and forcing children to go to other premises in order to have such needed services is found by the General Assembly to be both inadequate and harmful." This legislative finding overlooks the fact that in many circumstances both public and nonpublic school children receive such services through the existing county mental health and mental retardation base service units funded by the Department of Public Welfare. It is conceivable that this finding and declaration of purpose could be construed as prohibiting the delivery of these types of psychological services by the existing mental health system to school children and requiring the Secretary of Education to establish a duplicative system. Assuredly, such result was not intended by the General Assembly.

The proper response to the perceived problem of the statutory prohibition on psychological services being provided by the public school system on the premises of nonpublic schools is to amend that specific section of the statute which contains that prohibition. Such an amendment can be made without producing the various problems contained in Senate Bill No. 1204, which problems would actually curtail the delivery of psychological services to school children. I am hereby directing the Justice Department to work with the General Assembly in drafting the appropriate amendment to effect the end which the General Assembly wishes to achieve.

For these reasons, the bill is not approved.

MILTON J. SHAPP

Veto No. 1978-11

SB 1233 July 1, 1978

To the Honorable, the Senate
of the Commonwealth of Pennsylvania:

I return herewith, without my approval, Senate Bill No. 1233, Printer's No. 2034, entitled, "An act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for the imposition of sentences for murder."

The citizens of this Commonwealth are expressing growing frustration with the criminal justice system and its failure to deal adequately and swiftly with those who have taken a human life. We emphatically demand an end to violent crimes and the debilitating fear that permeates an environment of violence.

The General Assembly has addressed itself to this legitimate frustration and demand. It has approved constitutional amendments aimed at easing the overburdened criminal justice system through more efficient prosecutorial procedures and through the appointment of additional appellate judicial manpower. Allowing prosecutors to dispense with the cumbersome grand jury system of indictment in favor of the more expedient manner of filing criminal information will do much to conform that system to today's realities. The addition of Judges to the Superior Court, the court charged with oversight on the criminal justice system, will help restore to the system the ability to dispense swift and certain punishment to criminal offenders.

I commend the General Assembly for these and related reforms of our criminal justice system.

I have before me now Senate Bill No. 1233, an amendment to the Crimes Code.

This bill would reinstate imposition of the death penalty in Pennsylvania. An individual found guilty of first-degree murder could be subject to death or life imprisonment depending on relevant aggravating and mitigating circumstances.

I cannot approve this bill.

I understand the demand that society has an obligation to permanently protect its members from those who have criminally taken the life of another. No one can minimize the legitimacy of this demand. But I do not believe that our society is better protected by allowing the State to violate the very values it is delegated to preserve.

I have seen no convincing evidence supporting the proposition that the death penalty deters the commission of serious crime. And Senate Bill No. 1233 goes well beyond those limited areas of crime deterence I described in my veto message of March 22, 1974 in respect to H.B. 1060.

The reintroduction of capital punishment could lull us into the false belief that we have effectively responded to the need for an end to violence when in fact we have not.

The urgent task of making the criminal justice system operate to our benefit and for our protection must be addressed. The General Assembly has begun the task of strengthening every facet of the law enforcement and criminal justice systems. To the extent that the reinstitution of the death penalty turns us away from this more difficult but more important task, I must oppose it.

Ultimately, I do not believe that the State should take the life of one who has taken the life of another. I do not believe that the barbarous behavior of an individual necessitates the barbarous response of the Commonwealth in the name of protecting its citizens. I do not believe that the death penalty will make our lives and our environment any safer.

For these reasons the bill is not approved.

MILTON J. SHAPP

Veto No. 1978-12

SB 1416 September 28, 1978

To the Honorable, the Senate
of the Commonwealth of Pennsylvania:

I return herewith, without my approval, Senate Bill No. 1416, Printer's No. 1787, entitled "An act amending the act of March 28, 1974 (P.L.228, No.50), entitled 'An act providing for the annual announcement of grants by the Pennsylvania Higher Education Assistance Agency; authorizing the continuing appropriation of certain funds; and providing for the manner in which certain appropriations may be revised,' further providing for coordination with Federal financial aid programs."

This bill proposes to roll back from May 1 to March 1 the date on which the Pennsylvania Higher Education Assistance Agency is authorized to announce the scholarships and educational assistance grants to be awarded for the next succeeding academic year, and, in addition, amends the date on which funds equal to the prior year's appropriation are deemed to be automatically reappropriated for the next succeeding year.

I cannot approve this bill. To do so could mean that my successor, and every future incoming Governor, under the new Commonwealth budget procedures, might find that a sizable appropriation for such grants had already been made for the succeeding fiscal year before or at the same time as the Governor's own initial budget requests to the Legislature. In addition, even in those years in which there is no new incoming Governor, this proposed amendment would further remove the General Assembly's review and analysis of these particular grants from the context of the total budgetary process.

For these reasons, I have withheld my approval from this bill.

MILTON J. SHAPP

Veto No. 1978-13

HB 238 October 3, 1978

To the Honorable, the House of Representatives
of the Commonwealth of Pennsylvania:

I return herewith, without my approval, House Bill No. 238, Printer's No. 3882, entitled "An act amending the act of March 4, 1971 (P.L.6, No.2), entitled 'An act relating to tax reform and State taxation by codifying and enumerating certain subjects of taxation and imposing taxes thereon; providing procedures for the payment, collection, administration and enforcement thereof; providing for tax credits in certain cases; conferring powers and imposing duties upon the Department of Revenue, certain employers, fiduciaries, individuals, persons, corporations and other entities; prescribing crimes, offenses and penalties,' further providing for exclusions from tax for education, for timely filing of tax petitions, and the time for filing reports and returns and other documents, establishing a standard refund procedure and setting forth an appellate procedure for the taxpayer to the courts of this Commonwealth, adding a definition relating to blasting, clarifying the recognition of the valuation portion of the loan loss reserve in assessing the value of capital stock for the bank shares tax and making certain repeals."

The bill provides some needed changes particularly in the area of establishing the refunding procedures for the Personal Income Tax and in establishing the filing date for tax reports, petitions and payments. However, the bill, if enacted, will result in the loss of approximately $4,000,000 of General Fund revenues through the proposed changes in the Bank Shares Tax. Normally, the benefits of this bill would far outweigh this revenue loss. However, in 1978-79 the Commonwealth faces a potential deficit in program funding of over $100,000,000 and cannot absorb further revenue losses of the magnitude presented in this bill.

For this reason the bill is not approved.

MILTON J. SHAPP

Veto No. 1978-14

HB 282 October 5, 1978

To the Honorable, the Senate
of the Commonwealth of Pennsylvania:

I return herewith, without my approval, Senate Bill No. 282, Printer's No. 2144, entitled "An act amending the act of December 1, 1965 (P.L.988, No.368), entitled 'Weights and Measures Act of 1965,' providing for the disposition of fines and making certain exemptions."

This bill amends the "Weights and Measures Act" to allow coal to be weighed at point of sale or delivery. Section two of the Solid Fuel Law requires that any coal transported, sold or delivered on a public highway must first be weighed by a licensed weighmaster of the Commonwealth of Pennsylvania on accurate scales. Thus, coal must be weighed at the mine or break point.

The Solid Fuel Law further provides that coal sold, transported or delivered must be accompanied by a weighmaster's certificate indicating the kind and size of the coal, the name and address of the seller as well as the purchaser, the license number of the vehicle and trailer, the signature and license number of the weighmaster, and the date and hour when weighed, as well as the gross weight of the vehicle and load.

The amendment to this bill to the Weights and Measures Act would effectively eliminate the requirement of the weighmaster and weighmaster certificates under the Solid Fuel Law, and allow coal to be transported on highways without being weighed or without a certificate.

The Solid Fuel Law provides protection for the consumer of solid fuel, as well as providing the means for enforcement of weight limitations on highways. These two purposes are too important for me to permit their subversion by Senate Bill 282.

It is unfortunate that this veto necessarily includes the amendment Senate Bill 282 provides to section 36.1 of the act. This amendment provides for the disposition of fines to go to that unit of government responsible for bringing about the conviction. This amendment was what I had originally proposed. It would have provided necessary additional income to the treasury to help support the expenses in regulating our weights and measures laws. But I cannot allow the entire weighmasters program to be subverted in order to have the disposition of fines changed.

For these reasons the bill is not approved.

MILTON J. SHAPP

Veto No. 1978-15

SB 556 October 5, 1978

To the Honorable, the Senate
of the Commonwealth of Pennsylvania:

I return herewith, without my approval, Senate Bill No. 556, Printer's No. 1346, entitled "An act amending the act of July 7, 1947 (P.L.1368, No.542), entitled 'Real Estate Tax Sale Law,' further providing for payments over."

This bill allows excess moneys collected under the "Real Estate Tax Sale Law" to revert to the respective interested taxing districts if no rightful owner steps forward to claim the moneys within three years.

The bill carves out special treatment for these moneys under our escheat laws. The "Disposition of Abandoned and Unclaimed Property Act" states that this unclaimed money should go to the Commonwealth. No good reason is advanced to disturb this universal rule in this case, and I believe one rule of law should prevail in the Commonwealth for unclaimed money.

For these reasons the bill is not approved.

MILTON J. SHAPP

Veto No. 1978-16

HB 2369 October 5, 1978

To the Honorable, the House of Representatives
of the Commonwealth of Pennsylvania:

I return herewith, without my approval, House Bill No. 2369, Printer's No. 3703, entitled "An act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, providing for summary criminal contempt proceedings for persons who willfully fail to comply with lawful support orders."

This bill would make it a crime for a person to willfully fail to comply with a support order when he has the financial ability to pay. To criminalize the nonpayment of a debt is very bad public policy.

The bill also provides for mandatory imprisonment for this crime, even for as little as one day, when imprisonment is totally inappropriate in almost every factual instance.

This bill represents bad public policy because the criminal process is not the manner in which to resolve domestic relation disputes. Furthermore, imprisonment for debt is anathema to the American way of life. Indeed, this country was founded by men and women fleeing the debtor prisons of Europe.

I am aware of the complexities of the current method of criminal contempt proceedings for failure to pay support. Until such time as the General Assembly completely overhauls the support laws of the Commonwealth, however, that method will have to suffice.

For these reasons, I withhold my signature from this bill.

MILTON J. SHAPP

Veto No. 1978-17

HB 2506 October 5, 1978

To the Honorable, the House of Representatives
of the Commonwealth of Pennsylvania:

I return herewith, without my approval, House Bill No. 2506, Printer's No. 3887, entitled "An act amending the act of April 8, 1937 (P.L.262, No.66), entitled 'Consumer Discount Company Act,' authorizing certain loans by foreign lenders and limiting interest and other charges collected by foreign lenders and changing the amount, charges and duration of loans or advances."

I return this bill without my approval because the prime sponsor and the leaders of the House of Representatives asked that it be returned to them for further study.

I accede to the request to return the bill because there is no great urgency in its enactment, and I believe that close study of the problem of the lending limitations on Consumer Discount Companies should be made.

For this reason I withhold my approval of this bill.

MILTON J. SHAPP

Veto No. 18

SB 583 November 26, 1978

To the Honorable, the Senate
of the Commonwealth of Pennsylvania:

I return herewith, without my signature Senate Bill No. 583, Printer's No. 2188, entitled, "An act providing for the regulation for energy conservation purposes of the construction of buildings, the establishment of a building energy conservation committee and a board on variances, appeals and for penalties."

This bill, if signed into law, would establish a pervasive scheme of governmental regulation of building construction and renovation for the purpose of energy conservation. While the purpose of conserving scarce energy resources is of the highest importance and priority, and while I have advocated and supported efforts to enact laws promoting energy conservation, Senate Bill No. 583 seeks to achieve that goal by mechanisms which cannot be administered without budget breaking appropriations.

This bill would excessively burden the Commonwealth's construction industry, which would, in turn, pose a serious threat to the health and viability of the Commonwealth's economy.

Senate Bill No. 583 seeks to establish what would be, in effect, a comprehensive Statewide statutory building code extensively supplementing building regulations already in effect for purposes other than energy conservation. To properly and effectively administer and enforce such a code would necessitate the employment of innumerable additional plans examiners, building inspectors, technical experts, attorneys, and other administrative personnel, as well as necessitate the expenditure of tremendous sums of money to support their efforts.

Perhaps the greatest cost, however, would be that incurred by property owners, architects, engineers, builders, contractors, and others involved in building construction and renovation who would be forced to endure the bureaucratic red tape certain to increase multifold as a consequence of this proposed law.

The cost of Senate Bill No. 583, in terms of expanded bureaucracy, a construction industry potentially crippled, and a damaged economy are simply unjustifiable. Certainly, there are means less bureaucratic, less intrusive, and less costly to all by which to further the paramount objective of energy conservation.

I hope and trust that the General Assembly, with the support of all citizens of Pennsylvania, will continue its search for effective and cost-efficient mechanisms to combat waste and promote the conservation of energy resources, and procure Federal funding if appropriate.

I understand that there exist certain Federal programs, which, if implemented on the State level, would provide funding for energy conservation efforts. This bill, however, far exceeds the standards of the Federal programs.

For these reasons, I do not approve this bill.

MILTON J. SHAPP

Veto No. 19

SB 996 November 26, 1978

To the Honorable, the Senate
of the Commonwealth of Pennsylvania:

I return herewith, without my signature, Senate Bill No. 996, Printer's No. 2102, entitled, "An act amending the act of April 9, 1929 (P.L.177, No.175), entitled, 'The Administrative Code of 1929,' authorizing the Commissioner of the Pennsylvania State Police to make regulations relating to the Pennsylvania State Police communications systems when they are interfaced with systems of other agencies."

This bill permits the Commissioner of the Pennsylvania State Police to promulgate rules and regulations encouraging and permitting the reasonable interface, interconnection, and termination of communication systems with Pennsylvania State Police communication systems and facilities. These rules and regulations are to be submitted to the General Assembly for its approval.

This latter requirement of approval directly interferes with the authority and duty of the Executive Branch to faithfully execute the laws of the Commonwealth.

Rules and regulations of Commonwealth agencies are published weekly in the *Pennsylvania Bulletin* and are subject, therefore, to scrutiny, comment and debate by the General Assembly and the Commonwealth at large. This system is one of the most efficient and well-respected public notice systems in the country. It should not be abandoned now, especially when to do so is constitutionally impermissible.

For this reason I must disapprove this bill.

MILTON J. SHAPP

Veto No. 20

HB 1022 November 26, 1978

To the Honorable, the House of Representatives
of the Commonwealth of Pennsylvania:

I return herewith, without my signature, House Bill No. 1022, Printer's No. 3932, entitled "An act establishing the duties and responsibilities of owners of certain property damaged or destroyed by fire and prescribing penalties, creating certain liens and priority in insurance proceeds in favor of cities of the first, second, second A and third class, regulating the disbursement of insurance proceeds of the insured, and providing for direct payment and distribution of insurance proceeds to cities of the first, second, second A and third class under certain terms and conditions," for the following reasons.

This bill, while providing the salutary effect of direct payment of past due taxes and other municipal obligations directly from fire insurance proceeds, directly appropriates private moneys without due process of law, and I believe it is thus unconstitutional.

No matter how beneficial the reason, I cannot allow this erosion of basic American rights.

While I recognize that municipalities are plagued by burned-out, derelict buildings, sometimes burned by their owners for fire insurance proceeds, the General Assembly must address the problem by improving enforcement mechanisms of municipal liens and building code enforcement law.

This bill, while well intended, addresses this problem in a constitutionally impermissible manner.

For these reasons I return House Bill No. 1022 without my approval.

MILTON J. SHAPP

Veto No. 21

HB 1880 November 26, 1978

To the Honorable, the House of Representatives
of the Commonwealth of Pennsylvania:

I return herewith, without my approval, House Bill No. 1880, Printer's No. 3934, entitled, "An act amending the act of June 22, 1937 (P.L.1987, No.394), entitled, as amended, 'The Clean Streams Law,' requiring the board to take into consideration the risk of raw sewerage on the surface ground when establishing policy and priorities, limiting the authority of the Department of Environmental Resources and courts in requiring construction of sewerage facilities by municipalities, and prohibiting certain rules and regulations of the Environmental Quality Board which impose greater limitations than the minimal Federal requirements," for the following reasons.

In section 2 of the bill, the proposal is advanced that the Environmental Quality Board should not adopt rules or regulations which impose "greater limitations than which is required to meet minimal Federal requirements, unless such rule or regulation is subsequently approved by the General Assembly."

The type of limitation on Executive Branch rule-making power contained in this bill represents an unconstitutional infringement on the Administration's responsibility to faithfully execute the laws of the Commonwealth.

The specific issue which prompted the drafting of the bill relates to proposed Department of Environmental Resources revisions to the State Implementation Plan for air quality and proposed changes to the State's water quality standards.

I appreciate industry's concerns about these matters. They go to the heart of the question of industrial growth in Pennsylvania, which has been of the highest concerns of my Administration. However, the precedent of improper legislative interference in the affairs of the Executive Branch inherent in this bill prevents me from dealing with this important issue on its merits.

In my view, DER must be sensitive to the particular needs and problems of a prominent industrial state like ours. It must find solutions to environmental problems that are consistent with the fundamental goal of an economically vital Commonwealth.

In the past, we have successfully balanced the often competing interests of environmental activism and responsible industrial expansion. It has been my responsibility to review substantive DER and EQB matters with all responsible elements of the community to resolve critical areas of dispute.

The General Assembly continues to have the prerogative and responsibility to take appropriate legislative action when the need arises. However, such legislation must be drafted in ways consistent with the

constitutionally defined powers of the respective branches of government.

For these reasons, the bill is not approved.

MILTON J. SHAPP

Veto No. 22

HB 1980 November 26, 1978

To the Honorable, the House of Representatives
of the Commonwealth of Pennsylvania:

I return herewith, without my approval, House Bill No. 1980, Printer's No. 3886, entitled, "An act amending the act of July 19, 1974 (P.L.489, No.176), entitled, 'Pennsylvania No-Fault Motor Vehicle Insurance Act,' authorizing certain persons to treat their no-fault insurance as primary; providing for the disclosure of certain information and for temporary suspension of security requirements under certain circumstances, imposing certain powers and duties on the commissioner, and further providing for expense benefits."

This bill was intended to reform the present no-fault insurance law. However, in fact, it could have a seriously deleterious effect on insurance policyholders in the Commonwealth — both young and old.

Two provisions of this legislation are troublesome in particular. First, it would limit the amount of money recoverable under the no-fault plan for medical liability at $100,000, leaving motorists with one of two poor choices — either risk a catastrophic accident which would exhaust their benefits and force them to sue for further expenses or pay much higher premiums to receive coverage up to $250,000. Clearly this is unfair — it asks the consumer to pay more for what he already has in present law, while offering only a token premium reduction which would probably not offset presently anticipated rate increases.

The second aspect which makes this legislation unacceptable is the provision which would allow senior citizens to designate their auto carrier as their primary insurer, rather than Medicare, which is the currently mandated prime carrier.

In my view, this provision could encourage some insurance agents to pressure senior citizens to buy more insurance by convincing them to elect their auto insurance as prime medical coverage, thereby unnecessarily duplicating coverage they already have through Medicare and costing them an additional 40%, or about $25 per year.

For these two reasons I return this bill without my approval.

MILTON J. SHAPP

Veto No. 23

HB 2145 November, 26, 1978

To the Honorable, the House of Representatives
of the Commonwealth of Pennsylvania:

I return herewith, without my signature, House Bill No. 2145, Printer's No. 3888, entitled, "An act authorizing the creation of agricultural districts," for the following reasons.

This bill has the desirable aim of preserving good agricultural land for agricultural purposes. That was the purpose of the Clean and Green Amendment to the State Constitution which was supported by my Administration.

However, this bill creates agricultural districts of 500 acres or more in which there is a drastic reduction in and limitation on activity by local government, the Commonwealth and certain condemnors.

It is these limitations on legitimate governmental concerns which compel me to disapprove this bill. These limitations have the effect of making agricultural districts "extra special" for government purposes and which by implication and treatment create independent agricultural sovereignties which are intolerable in our democratic form of government.

By the terms of the bill, no municipality or political subdivision shall exercise any of its powers to enact local laws or ordinances within an agricultural district in a manner which could unreasonably restrict or regulate farm structures or farming practices in contravention of the purposes of the act unless such restrictions or regulations bear a direct relationship to the public health or safety.

By the terms of this bill it shall be the policy of all Commonwealth agencies to encourage the maintenance of viable farming in agricultural districts and their administrative regulations and procedures shall be modified to this end insofar as is consistent with the promotion of public health and safety, and with the provisions of any Federal statutes, standards, et cetera.

By the terms of this bill no agency of the Commonwealth, political subdivision authority, public utility or other body having or exercising powers of eminent domain shall condemn any land within any agricultural district for any purpose unless prior approval has been obtained from each of several bodies.

As one can ascertain from a close reading of the intent of this bill, agricultural districts are to be treated differently from other land in the Commonwealth. These differences provide unforeseen complications far beyond the implications of the framers of the document — which complications will completely impede normal development of farming areas — development which might not otherwise affect viable agricultural land. While I agree that there is a problem of the preservation of agricultural land, I cannot agree to place this land into special parcel for

rich agricultural land owners without check of normal government processes and normal economic development.

For these reasons I withhold my approval of House Bill No. 2145.

MILTON J. SHAPP